

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	WT Docket No. 02-55
)	
Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels)	
)	
To: The Commission		

REPLY COMMENTS OF TEXAS LICENSE CONSULTANTS

Texas License Consultants (“TLC”), by its counsel, and pursuant to Section 1.415 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”) and the invitation extended by the Commission in the Notice of Proposed Rule Making (“NPRM”)^{1/} in the above referenced proceeding, hereby submits its reply comments responsive to the comments of others that addressed the FCC’s proposals on how best to remedy interference to 800 MHz public safety systems.

I. Background

TLC is a provider of communications equipment and services in the Houston, Texas area. TLC’s principal has been involved in the two-way radio business for over 20 years in a variety of capacities, including as an owner of 800 MHz specialized mobile radio (“SMR”) systems.

^{1/} *In the Matter of Improving Public Safety Communications in the 800 MHz Band Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, *Notice of Proposed Rulemaking*, FCC No. 02-81 (rel. March 14, 2002) (“NPRM”). The Commission extended the deadline for the submission of reply comments in this proceeding to August 7, 2002. *In the Matter of Improving Public Safety Communications in the 800 MHz Band Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, *Order Extending Time for Filing of Reply Comments*, DA-02-1523 (June 27, 2002).

TLC's principal was the successful high bidder for spectrum, formerly licensed for paging operations, that will be used to provide two-way radio services in Houston and surrounding areas.^{2/} The Commission has consented to the assignment of 220 MHz spectrum to TLC in the Houston area. TLC is a member of the Ad Hoc Wireless Alliance ("Alliance") that submitted initial comments in this proceeding. As a provider of two way radio services in Texas, TLC is interested in many of the issues raised by the NPRM. It is particularly interested, however, in that element of the NPRM that addresses whether 900 MHz channels designated today for use in the Business and Industrial/Land Transportation ("B/ILT") pools should be made available for entities that wish to provide commercial mobile radio service ("CMRS"). Accordingly, TLC is pleased to have this opportunity to submit these Reply Comments in order to address that issue.

II. Reply Comments

TLC strongly supports the Alliance's position that the FCC should permit 900 MHz B/ILT spectrum to be converted for CMRS use. Nextel Communications, Inc. ("Nextel") agreed with the Alliance, although Nextel argued that these channels should be made available for commercial use if they are not required as part of Nextel's 800 MHz realignment process.^{3/} TLC disagrees and suggests that the 900 MHz B/ILT channels should be made available for commercial operations regardless of whether 800 MHz realignment occurs.

TLC understands that there will likely be two primary alternatives regarding the restructuring of the 800 MHz band suggested in the course of the submission of comments and reply comments in this proceeding. The first, which will likely be contained in the reply

^{2/} *Lower and Upper Paging Bands Auction Closes, Winning Bidders Announced*, Report No. AUC-01-40-N (Auction No. 40), *Public Notice*, DA 01-2858, Attachment A at 4 (Dec. 11, 2001).

^{3/} Nextel Comments at 64-65.

comments of the Private Wireless Coalition, will feature realignment of the 800 MHz band, and the relocation of some of the incumbent licensees in the 800 MHz band to 900 MHz SMR spectrum held by Nextel. The second, which will likely be supported by Cingular Wireless and others, will feature relocation of public safety licensees to the 700 MHz band, and will not likely implicate use of Nextel's 900 MHz SMR spectrum.

In either case, permitting CMRS use of the 900 MHz B/ILT spectrum will be appropriate and the FCC should not continue to delay this rule change. If the Private Wireless Coalition position is adopted, some of the former 900 MHz SMR spectrum will be used by relocated B/ILT licensees, while other former 900 MHz SMR spectrum will be used by displaced 800 MHz SMR licensees. If this conversion occurs, the distinction between the pools at 900 MHz will have effectively been eroded. There is no reason that the FCC should continue to maintain pool distinctions in one segment of the band and not in another.

If the FCC adopts the expected Cingular Wireless plan and 800 MHz licensees are not relocated to 900 MHz spectrum, then there is certainly no reason for the FCC to retain the artificial boundaries between the 900 MHz pools. It has been nearly twenty years since the FCC made this spectrum available for B/ILT use. A few private land mobile radio ("PLMR") entities that addressed this issue claim that permitting CMRS operations on B/ILT 900 MHz spectrum will diminish PLMR capacity.^{4/} However, the FCC should reject this argument. The FCC cannot reserve forever spectrum that is not in use, particularly when the FCC has noted that there

^{4/} See Comments of Florida Power and Light and the Boeing Company. In addition to Nextel, this position is opposed by Cascade Two Way Radio.

is other spectrum that is available, or that will likely be available for traditional private land mobile radio needs.^{5/}

III. Conclusion

Texas License Consultants hereby submits the foregoing reply comments and urges the Commission to act in a manner consistent with the recommendations made herein.

Respectfully submitted,

Texas License Consultants

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^{5/} See generally *FCC Staff Report on NTIA's Study of Current and Future Spectrum Use by the Energy, Water, and Railroad Industries Submitted Pursuant to Public Law No. 106-553* (July 30, 2002).

CERTIFICATE OF SERVICE

I, Carly B. Tolchin, hereby certify that on the 7th day of August 2002 a copy of the foregoing "Reply Comments of Texas License Consultants," was filed electronically on the Commission's ECFS System, and copies were served via the methods noted below on the following:

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